

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 553 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 : NO

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NARESHBHAI BABUBHAI PATEL

Versus

STATE OF GUJARAT

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Appearance:

MR DR BHATT for Petitioner

MR SR DIVETIA APP for Respondent No. 1

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 23/07/98

ORAL JUDGEMENT

Heard learned advocate Mr. D.R Bhatt for the petitioner and learned APP Mr. S.R Divetia for the respondent-State.

2. Petitioner before this court claims to be the owner of a vehicle being Maruti Gypsy Car bearing

Registration No. GJ-5-N-6323 which is allegedly involved in a prohibition offence for which criminal case No. 4 of 1997 against one Kantibhai Jaghubhai Patel & Ors. {Petitioner not being one of the accused persons} is lodged in the Court of learned Judicial Magistrate, First Class, Bardoli. Pending prosecution, on 14th July, 1997, the petitioner made an application for interim possession of the above referred vehicle. The said application was rejected by the learned Magistrate on 2nd January, 1998. Feeling aggrieved, the petitioner preferred Criminal Revision Application No. 14 of 1998 before the learned Addl. Sessions Judge, Surat which came to be dismissed on 18th February, 1998. Feeling aggrieved, the petitioner has preferred the present petition.

Mr. Bhatt has submitted that apart from the petitioner's vehicle, three other vehicles have been involved in the offence in question and in respect of all the said three vehicles, this Court has made an order handing over interim possession of the vehicle to the concerned owner, pending trial, on conditions stipulated therein. Mr. Bhatt, therefore, prays that possession of the petitioner's vehicle should also be handed over to him on the same terms and conditions. Mr. Divetia does not dispute that the possession of other three vehicles involved in the offence have been handed over to the concerned owners under the orders made by this Court.

In view of the above facts, the order of the learned Magistrate made on 2nd January, 1998 and the judgment and order of the learned Addl. Sessions Judge, Surat, passed in Criminal Revision Application No. 14 of 1998 dated 18th February, 1998, are hereby quashed and set-aside. The respondents are directed to hand over possession of the vehicle bearing registration No. GJ-5-N-6323 to the petitioner herein, on the following terms and conditions :-

- (1) The petitioner shall furnish surety for a sum of Rs. 2 lacs to the satisfaction of the learned Magistrate and shall execute a personal bond for the like amount.
- (2) The petitioner shall keep the vehicle in question in road-worthy condition.
- (3) The petitioner shall not transfer or make any attempt to transfer or in any other way alienate the muddamal vehicle in any manner whatsoever.

- (4) The petitioner will also not use the concerned vehicle for the purpose of any criminal activity.
- (5) The petitioner shall produce the concerned vehicle as and when so required by the court.
- (6) The petitioner will take the concerned vehicle to Palsana Police Station on first Sunday of every month between 9.30 a.m. and 5.30 p.m for the purpose of check-up and inspection.

Petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs. Registry is directed to send the writ forthwith.

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Prakash\*